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ABSTRACT

This report provides background information on Senate Bill 184, the Utah Schools and Lands Improvement Act of 1993, under which the federal government would acquire over 200,000 acres of land and mineral rights from the state of Utah in exchange for federal land, certain mineral resources, or a portion of federal mineral receipts in that state. At the time of statehood in 1896, the federal government granted Utah "sections" in every township, totaling about 7.5 million acres. to be used for the support of public schools. These lands are not contiguous. Ongoing land management problems for both the state and federal governments would be remedied by the proposed exchange. The land acquired from the state would be incorporated into two Indian reservations, as well as into various national parks and forests around Utah. The Congressional Budget Office estimated the cost of this measure; the Committee made a regulatory impact evaluation statement; and the U.S. Department of Agriculture supported enactment with some suggested amendments. The U.S. Department of the Interior supported the bill, but pointed out potential "pay as you go" costs from reduced royalties to the federal treasury. The report contains proposed amendments, as well as a section-by-section analysis of the bill. (KS)

UTAH SCHOOLS AND LANDS IMPROVEMENT ACT OF 1993

CALENDAR NO. 94

Calendar No. 94

103D CONGRESS *1st Session* | SENATE | REPORT 103–56

UTAH SCHOOLS AND LANDS IMPROVEMENT ACT OF 1993

JUNE 16 (legislative day, JUNE 15), 1993.– Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 184]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 184), to provide for the exchange of certain lands within the State of Utah, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Utah Schools and Lands Improvement Act of 1993".

SEC. 2. UTAH-NAVAHO LAND EXCHANGE.

(a) ADDITIONS TO RESERVATION.—For the purpose of securing the trust for the Navajo Nation certain lands belonging to the State of Utah, which comprise approximately thirty-eight thousand five hundred acres of surface and subsurface estate, and approximately an additional nine thousand five hundred acres of subsurface estate, as generally depicted on the map entitled "Utah-Navajo Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Navajo Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

SEC. 3. STATE LANDS WITHIN THE GOSHUTE INDIAN RESERVATION.

(a) ADDITION TO RESERVATION.—For the purpose of securing in trust for the Goshute Indian Tribe certain lands belonging to the State of Utah, which comprise approximately nine hundred eighty acres of surface and subsurface estate, and an additional four hundred and eighty acres of subsurface estate, as generally depicted on the map entitled "Utah-Goshute Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Goshute Indian Reservation in the State

of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire though exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

(c) OTHER LAND.—(1) The following tract of Federal land located in the State of Nevada, comprising approximately five acres more or less, together with all improvements thereon, is hereby declared to be part of the Goshute Indian Reservation, and shall be held in trust for the Goshute Indian Tribe: Township 30 North, Range 69 East, lots 5, 6, 7, 9, 11, and 14 of section 34.

(2) No part of the lands referred to in paragraph (1) shall be used for gaming or any related purpose.

SEC. 4. IMPLEMENTATION.

The exchanges authorized by sections 2 and 3 of this Act shall be conducted without cost to the Navajo Nation and the Goshute Indian Tribe.

SEC. 5. STATE LANDS W THIN THE NATIONAL FOREST SYSTEM.

(a) AUTHORIZATION.—The Secretary of Agriculture is authorized to accept on behalf of the United Stats title to the school and institutional trust lands owned by the State of Utah within units of the National Forest System, comprising approximately seventy-six thousand acres as depicted on a map entitled "Utah Forest Land Exchange", dated May 18, 1992.

(b) STATUS.—Any lands acquired by the United States pursuant to this section shall become a part of the national forest within which such lands are located and shall be subject to all the laws and regulations applicable to the National Forest System.

SEC. 6. STATE LANDS WITHIN THE NATIONAL PARK SYSTEM.

(a) AUTHORIZATION.—The Secretary of the Interior is hereby authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah located within all units of the National Park System, comprising approximately eighty thousand acres, located within the State of Utah on the date of enactment of this Act.

(b) STATUS.—(1) Notwithstanding any other provision of law, all lands of the State of Utah within units of the National Park System that are conveyed to the United States pursuant to this section shall become a part of the appropriate unit of the National Park System, and shall be subject to all laws and regulations applicable to that unit of the National Park System.

(2) The Secretary of the Interior shall, as a part of the exchange process of this Act, compensate the State of Utah for the fair market value of five hundred eighty and sixty-four one-hundredths acres within Capitol Reef National Park that were conveyed by the State of Utah to the United States on July 2, 1971, for which the State has never been compensated. The fair market value of these lands shall be established pursuant to section 8 of this Act.

SEC. 7. OFFER TO STATE.

(a) SPECIFIC OFFERS.—Within thirty days after enactment of this Act, the Secretary of the Interior shall transmit to the State of Utah a list of lands, or interests in lands, within the State of Utah for transfer to the State of Utah in exchange for the state lands and interests described in sections 2, 3, 5, and 6 of this Act. Such list shall include only the following Federal lands, or interests therein:

(1) Blue Mountain Telecommunications Site, fee estate, approximately six hundred and forty acres.

(2) Beaver Mountain Ski Resort site, fee estate, approximately three thousands acres, as generally depicted on the map entitled "Beaver Mountain Ski Resort" dated September 16, 1992.

(3) The unleased coal located in the Winter Quarters Tract.

(4) The unleased coal located in the Crandall Canyon Tract.

(5) All royalties receivable by the United States with respect to coal leases in the Quitchupah (Convulsion Canyon) Tract.

(6) The unleased coal located in the Cottonwood Canyon Tract.

(7) The unleased coal located in the Soldier Creek Tract.

(b) ADDITIONAL OFFERS.—(1) In addition to the lands and interests specified in subsection (a), the Secretary of the Interior shall offer to the State of Utah a portion of the royalties receivable by the United States with respect to Federal geothermal, oil, gas, or other mineral interests in Utah which on December 31, 1992, were under lease and covered by an approved permit to drill or plan of development and plan

of reclamation, were in production, and were not under administrative or judicial appeal.

(2) No offer under this subsection shall be for royalties aggregating more than 50 per centum of the total appraised value of the State lands described in sections 2, 3, 5, and 6.

(3) The Secretary shall make no offer under this subsection which would enable the State of Utah to receive royalties under this section exceeding $12,500,000 annually.

(4) If the total value of lands and interests therein and royalties offered to the State pursuant to subsections (a) and (b) is less than the total value of the State lands described in sections 2, 3, 5, and 6, the Secretary shall provide the State a list of all public lands in Utah that as of December 31, 1992, the Secretary, in resource management plans prepared pursuant to the Federal Land Policy and Management Act of 1976, had identified as suitable for disposal by exchange or otherwise, and shall offer to transfer to the State any or all of such lands, as selected by the State, in partial exchange for such State lands, to the extent consistent with other applicable laws and regulations.

SEC. 8. APPRAISAL OF LANDS TO BE EXCHANGED.

(a) EQUAL VALUE.—All exchanges authorized under this Act shall be for equal value. No later than ninety days after enactment of this Act, the Secretary of the Interior, the Secretary of Agriculture, and the Governor of the State of Utah shall provide for an appraisal of the lands or interests therein involved in the exchanges authorized by this Act. A detailed appraisal report shall utilize nationally recognized appraisal standards including, to the extent appropriate, the uniform appraisal standards for Federal land acquisition.

(b) DEADLINE AND DISPUTE RESOLUTION.—(1) If after two years from the date of enactment of this Act, the parties have not agreed upon the final terms of some or all of the exchanges authorized by this Act, including the value of the lands involved in some or all of such exchanges, notwithstanding any other provisions of law, the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(2) No action provided for in this subsection may be filed with the Court sooner than two years and later than five years after the date of enactment of this Act. Any decision of a District Court under this Act may be appealed in accordance with the applicable laws and rules.

(c) ADJUSTMENT.—If the State shares revenue from the selected Federal properties, the value of such properties shall be the value otherwise established under this section, less the percentage which represents the Federal revenue sharing obligation, but such adjustment shall not be considered as reflecting a property right of the State of Utah.

(d) INTEREST.—Any royalty offer by the Secretary pursuant to subsection 7(b) shall be adjusted to reflect net present value as of the effective date of the exchange. The State shall be entitled to receive a reasonable rate of interest at a rate equivalent to a five-year treasury note on the balance of the value owed by the United States from the effective date of the exchange until full value is received by the State and mineral rights revert to the United States as prescribed by subsection 9(a)(3).

SEC. 9. TRANSFER OF TITLE.

(a) TERMS.—(1) The State of Utah shall be entitled to receive so much of those lands or interests in lands and additional royalties described in Section 7 that are offered by the Secretary of the Interior and accepted by the State as are equal in value to the State lands and interests described in Section 2, 3, 5, and 6.

(2) For those properties where fee simple title is to be conveyed to the State of Utah, the Secretary of the Interior shall convey, subject to valid existing rights, all right, title, and interest, subject to the provisions of subsection (b). For those properties where less than fee simple is to be conveyed to the State of Utah, the Secretary shall reserve to the United States all remaining right, title, and interest of the United States.

(3) All right, title, and interest in any mineral rights described in section 7 that are conveyed to the State of Utah pursuant to this Act shall revert to the United States upon removal of minerals equal in value to the value attributed to such rights in connection with an exchange under this Act.

(4) If the State of Utah accepts the offers provided for in this Act, the State shall convey to the United States, subject to valid existing rights, all right, title, and interest of the State to all school and institutional trust lands described in Sections 2, 3, 5, and 6 of this Act. Except as provided in Section 7(b), conveyance of all lands

or interests in lands shall take place within sixty days following agreement by the Secretary of the Interior and the Governor of the State of Utah, or entry of an appropriate order of judgment by the District Court.

(b) INSPECTIONS.—Both parties shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Act for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. Responsibility for costs of remedial action related to materials identified by such inspections shall be borne by those entities responsible under existing law.

(c) CONDITIONS.—(1) With respect to the lands and interests described in Section 7, enactment of this Act shall be construed as satisfying the provisions of Section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(2) Development of any mineral interest transferred to the State of Utah pursuant to this Act shall be subject to all laws, rules, and regulations applicable to development of non-Federal mineral interests, including, where appropriate, laws, rules, and regulations applicable to such development within National Forests.

SEC. 10. LEGAL DESCRIPTIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, a map and legal description of the lands added to the Navajo and Goshute Indian Reservations and all lands exchanged under this Act shall be filed by the appropriate Secretary with the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the offices of the Secretary of Agriculture and the Secretary of the Interior and the Utah offices of the appropriate agencies of the Department of the Interior and Department of Agriculture.

(b) PILT.—Section 6902(b) of Title 31, United States Code, is amended by striking "acquisition." and inserting in lieu thereof "acquisition, nor does this subsection apply to payments for lands in Utah acquired by the United States if at the time of such acquisition units, under applicable State law, were entitled to receive payments from the State for such lands, but in such case no payment under this chapter with respect to such acquired lands shall exceed the payment that would have been made under State law if such lands had not been acquired.".

(c) INTENT.—The lands and interests described in Section 7 are an offer related only to the State lands and interests described in this Act, and nothing in this Act shall be construed as precluding conveyance of other lands or interests to the State of Utah pursuant to other exchanges under applicable existing law or subsequent act of Congress. It is the intent of Congress that the State should establish a funding mechanism, or some other mechanism, to assure that counties within the State are treated equitably as a result of this exchange.

(d) COSTS.—The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

(e) DEFINITION.—As used in this Act, the term (1) "School and Institutional Trust Lands" means those properties granted by the United States in the Utah Enabling Act of the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designed by the Utah Enabling Act; and (2) Secretary means the Secretary of the Interior, unless specifically defined otherwise.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

PURPOSE OF THE MEASURE

The purpose of S. 184, as ordered reported, is to exchange approximately 200,000 acres of State lands in Utah for certain Federal lands and interests therein.

BACKGROUND AND NEED

As in other Western States, and land-ownership patterns in Utah are extremely complicated because of the manner in which the United States disposed of its public domain lands.

In Utah, the State and railroad companies received more than 9.7 million acres from the United States. The largest grant to the State, made at the time of Statehood in 1896, was four sections in each township, for a total of more than 5.8 million acres, for the support of the public schools. Other grants brought the total public domain lands donated to the State to just over 7.5 million acres, or about 14.2 percent of the total acreage in Utah.

Because the railroad grants were "checkerboarded" and the sections granted for support of the public schools were not contiguous in each township, the patterns present land-management problems for both the State and Federal Governments. These problems were compounded because Utah entered the Union when the earlier national policy of extensive disposal of public lands was being replaced by a policy of retaining extensive areas for such conservation purposes as National Parks and National Forests.

As a result, scattered Utah State lands are found in many units of the National Forest and National Parks Systems, and are interspersed with public lands now managed by the Bureau of Land Management under the Federal Land Policy and Management Act of 1976, or "FLPMA" (which formally established a policy of retention of unreserved public lands that, as a practical matter, had been followed at least since the 1934 enactment of the Taylor Grazing Act), as well as with Indian reservation lands and lands withdrawn for military purposes.

There has been longstanding dissatisfaction with the land-ownership pattern in Utah (and other Western States), and periodic proposals (e.g., in the 1930's and 1940's) for wholesale transfers of additional public lands to State ownership. In Utah, beginning in the late 1970's, Governor Matheson undertook an initiative, known as "Project BOLD", to improve matters through extensive land exchanges.

In 1984, after more than 4 years of consultation and negotiation between the State and the Department of the Interior, and with a formal resolution of support by the Utah Legislature, legislation to implement "Project BOLD" was introduced in both the Senate and the House of Representatives. Hearings were held in the Senate during the 98th Congress, but no further action was taken.

Since that time, however, attempts to complete extensive exchanges administratively were unsuccessful because of the inability of the State and the Federal Government to resolve disagreements over land valuation. In response, legislation was introduced in both the House and the Senate during the 102d Congress to facilitate an exchange involving the State' school trust lands that are "inholdings" within Indian reservations, National Forests, and units of the National Park System. Although similar bills were passed by both Houses, a final measure was not enacted prior to the adjournment of the Congress.

LEGISLATIVE HISTORY

S. 184 was introduced by Senators Hatch and Bennett on January 26, 1993. A companion measure, H.R. 677, was introduced on January 27, 1993. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 184 on May 6, 1993.

Last Congress, a similar measure, S. 2577, was introduced by Senators Garn and Hatch. The Subcommittee on Public Lands, National Parks and Forests held a hearing on the bill on August 4, 1992. A House passed companion measure, H.R. 5118, the House companion measure, passed Senate with amendments on October 7, 1992. No further action was taken by the House prior to the adjournment of the Congress.

At a business meeting on May 19, 1993, the Committee on Energy and Natural Resources ordered S. 184, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on May 19, 1993, by a unanimous vote of a quorum present, recommends that the Senate pass S. 184, if amended as described herein.

The roll call vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford*	
Mr. Bradley	
Mr. Bingaman	
Mr. Akaka	
Mr. Shelby*	
Mr. Campbell	
Mr. Mathews	
Mr. Krueger	
Mr. Wallop*	
Mr. Hatfield*	
Mr. Domenici	
Mr. Murkowski	
Mr. Nickles*	
Mr. Craig	
Mr. Bennett	
Mr. Specter*	
Mr. Lott	

*Indicates voted by proxy.

COMMITTEE AMENDMENT

During the consideration of S. 184, the Committee adopted an amendment in the nature of a substitute made several technical corrections and conforming changes to make the bill consistent with the House companion measure and the version passed by the Senate during the 102d Congress.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill the "Utah Schools and Lands Improvement Act of 1993".

Section 2 authorizes the exchange of about 38,500 acres of Utah State lands and the State's subsurface estate for about 9,500 acres located within the Navajo Reservation. It provides for their acquisition, subject to valid existing rights, by the United States as part of the exchanges authorized by the bill, and for their addition to the reservation upon such acquisition.

Section 3 authorizes the exchange of about 980 acres of Utah State lands and the State's subsurface estate in about 470 acres located within the Goshute Indian Reservation, including 5 acres of public land in Nevada. The section provides for the acquisition of the Utah State lands by the United States as part of the exchanges authorized by the bill and for their addition to the reservation upon such acquisition. It also declares the Nevada tract to be part of the reservation and provides that the Nevada tract shall not be used for gaming or any related purpose.

Section 4 provides that the exchanges are to be conducted without cost to the Indian tribes.

Section 5 deals with Utah State school and institutional trust lands located within units of the National Forest System. It provides for acquisition of these lands, amounting to about 76,000 acres. These lands shall become part of the National Forest within which the lands are located and shall be managed as part of the National Forest System.

Section 6 deals with Utah State school and institutional trust lands and minerals, amounting to about 68,400 acres in fee plus the subsurface estate in about 12,796 additional acres, located within units of the National Park System. It provides for their acquisition of the United States as part of the exchanges authorized by the bill, and for their management as part of the relevant National Park System unit. It also provides that, as part of the evaluation and exchange process authorized by the bill, the Secretary of the Interior will compensate the State for the fair market value of about 580.64 acres within the Capitol Reef National Park conveyed to the United States by the State in 1971. The Committee understands that in consideration for the State lands conveyed in 1971, the State was to receive Federal lands of equal value outside the park boundary. The Federal lands were never conveyed so the effect of this provision is to complete that exchange in the context of this bill.

Section 7 provides for offers of lands, or interests in lands, to the State in exchange for the State lands and interests described in sections 2, 3, 5, and 6.

Subsection 7(a) would require the Secretary of the Interior to specifically offer to the State only the following lands and interests:

The fee estate in the Blue Mountain Telecommunications site, a tract of BLM-managed public lands in Utah County, Utah, amounting to about 640 acres;

The fee estate in certain lands within the Wasatch-Cache National Forest, known as the Beaver Mountain Ski Resort

site, amounting to about 3,000 acres as described on appropriately-referenced map;

The unleased coal in a tract of land, amounting to about 2,020 acres within the Manti-La Sal National Forest, known as the Winter Quarters tract;

The unleased coal in a tract of land, amount to about 3,384 acres within the Manti-La Sal National Forest, known as the Crandall Canyon tract;

All royalties receivable by the United States from existing coal leases located in an area within the Fishlike Anti-La Sal National Forests known as the Quitchupah (or Convulsion Canyon) tract;

The unpleased coal in a portion of the Anti-La Sal National Forest, amounting to 7,865 acres, known as the Cottonwood tract; and

The unleased coal on lands managed by the Bureau of Land Management northeast of Wellington, in Carbon County, Utah, amounting to about 1,104 acres known as the Soldier Creek tract.

Subsection 7(b) provides for possible additional offers to the State. It would require the Secretary of the Interior to offer the State the right to receive a portion of the royalties retained by the United States from geothermal, oil, gas, or other mineral leases in Utah that on December 31, 1992, were under lease and covered by an approved permit to drill or plan of development and plan of reclamation and were not under administrative or judicial appeal. Under this subsection, the total value of such royalties offered to the State could not exceed 50 percent of the total appraised value of the State lands (described in sections 2, 3, 5, and 6) that would be acquired by the United States in the exchanges authorized by the bill. In addition, the subsection provides that the Secretary could make no offer of royalties which would allow the State of Utah to receive royalties in excess of $12.5 million annually.

Finally, subsection 7(b) provides that if the total value of the lands, interests, and royalties offered to the State pursuant to subsections 7(a) and 7(b)(1) does not equal to the total value of the State lands (described in sections 2, 3, 5, and 6) to be acquired by the United States, the Secretary of the Interior shall provide the State a list of all public lands in Utah that as of December 31, 1992, had been identified as suitable for disposal in Resource Management Plans prepared pursuant to the Federal Land Policy and Management Act of 1976, and to the extent that such transfer would be consistent with any other applicable laws (for example, the Endangered Species Act, the Archeological Resources Protection Act, or the Historic Preservation Act) and regulations, shall offer to transfer to the State any or all of such lands, as selected by the State, in partial exchange for such State lands.

Section 8 provides for establishing the values of the lands and interests whose exchange is authorized by the bill. Subsection 8(a) provides that the exchanges are to be for equal value, directs that within 90 days after enactment of the bill the Secretary of the Interior and the Governor of Utah are to provide for an appraisal of the lands and interests proposed for exchange, and specifies that a detailed appraisal report shall utilize nationally recognized ap-

praisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition.

Subsection 8(b) provides for resolution of any disputes over valuation of the lands and interests to be exchanged under the bill. It specifies that if within 2 years after enactment of the bill the State and United States have not agreed on the final terms of some or all of the exchanges, including the value of the lands involved in some or all of the exchanges, notwithstanding any other provisions of law, the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any lands or interests therein, involved in the exchange.

Subsection 8(c) provides for the adjustment of royalties for interest.

Subsection (d) provides that any royalty offer by the Secretary pursuant to subsection 7(b) shall be adjusted to reflect net present value as of the effective date of the exchange. The State shall be entitled to a reasonable rate of interest at a rate equivalent to a 5-year treasury note on the balance of the value owed by the United States from the effective date of the exchange until full value is received by the State and mineral rights revert to the United States as prescribed by subsection 9(a)(3).

Section 9 deals with transfer of title to lands and interests involved in exchanges authorized under the bill, and contains a number of provisions related to implementation of the bill. It specifies that the State of Utah will be entitled to receive lands, interest in lands, and additional royalties described in section 7 that are offered by the Secretary of the Interior and accepted by the State and are equal in value to the State lands and interests transferred to the United States in an exchange authorized by the bill. It provides that all right, title, and interest in any mineral rights described in section 7 that are conveyed to the State will revert to the United States upon removal of minerals equal in value to the value attributed to the rights involved in connection with the exchanges authorized by the bill. It provides that if the State accepts the offers made pursuant to the bill, conveyance by the State of the land to be acquired by the United States must be made within 60 days of either agreement between the State and the Secretary of the Interior or entry of an appropriate judgment by the District Court. It specifies that the United States will inspect the Federal lands and interests proposed for exchange, and the State will inspect the State lands and interest, that the results of those inspections will be shared, and that any responsibility for the costs of any remedial actions related to materials identified in the inspections will be determined under existing law. Finally, subsection 9(c) provides that enactment of the bill will be deemed to satisfy the requirement of section 206(a) of the Federal Land Policy and Management Act that exchanges be in the public interest and the development of any mineral interest transferred to the State under the bill will be subject to all laws, rules, and resolutions applicable to non-Federal mineral interests including, where appropriate, the laws, rules, and regulations applicable to such development within national forests.

Section 10 contains a number of miscellaneous provisions, in including a number related to implementation of the exchanges authorized by the bill. Subsection 10(a) provides for the filing of maps and legal description of the lands to be transferred to the United States, including lands to be added to the Navajo and Goshute Reservations.

Subsection (b) amends the law providing for certain Federal payments (known as "payment in lieu of taxes" or "PILT") to units of local government within whose jurisdiction qualifying Federal lands are located. The effect of the subsection is to authorize such payments to be made with respect to lands acquired from the State through an exchange authorized by the bill. Because the intent of this subsection is to hold local governments harmless against such a result, the subsection provides that no Federal PILT payment based on lands acquired from the State in an exchange authorized under the bill can exceed the payment that the State would have made with respect to those lands absent enactment of the bill.

Subsection (c) provides that the offer of lands and interests made by section 7 of the bill is related only to the contemplated acquisition by the United States of the States lands specified in sections 2, 3, 5, and 6, and that nothing in the bill is to be read as precluding conveyance of other Federal lands and interests therein to the State of Utah pursuant to other exchanges under existing law or any subsequent Act of Congress. It also states that Congress intends that the State should act in some manner, such as through a funding mechanism, to assure that counties within Utah are treated equitably as a result of the exchanges authorized by the bill.

Subsection (d) provides that the United States and the State of Utah will each bear their own respective costs incurred in implementing the bill.

Subsection 10(e) provides definitions of terms used in the bill.

Section 11 is an authorization for appropriation of such sums as may be necessary for the costs to the United States of implementing the bill.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 24, 1993.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 184, the Utah Schools and Lands Improvement Act of 1993, as ordered reported by the Senate Committee on Energy and Natural Resources on May 19, 1993. While enactment of this bill would not result in significant additional discretionary spending by the federal government, CBO estimates that it would result in a loss of offsetting receipts totaling about $38 million over the 1996–1998 period, which would be direct spending. Because the bill

would affect direct spending, it would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Bill Purpose: Under the terms of S. 184, the federal government would acquire over 200,000 acres of land and mineral rights from the state of Utah in exchange for federal land, certain mineral resources or a portion of federal mineral receipts in that state. The land acquired from the state would be incorporated into two Indian reservations, as well as into various national parks and forests around Utah.

The state would be authorized to choose federal land of equal value to the land relinquished, based on lists prepared by the Department of the Interior (DOI). The state would also be entitled to interest on the outstanding balance of the value owed, if federal compensation is made over time. In addition, DOI would be authorized to offer the state certain mineral leases or a portion of mineral royalties receivable on various existing federal leases around the state. Royalty payments to the state would be limited to 50 percent of the total value of state lands relinquished and would be further limited to $12.5 million annually.

Finally, S. 184 would establish a procedure for determining the value of lands involved in the exchange.

Estimated Costs to the Federal Government: Information from DOI indicates that the administrative costs associated with implementing this bill would not be significant. The agency has also indicated that the estimated value of the state lands to be exchanged as a result of this bill's enactment is between $30 million and $50 million. (The state of Utah believes that the value of its land could be considerably greater than estimated by DOI—perhaps as much as $200 million.) Some of this land is currently generating income for the U.S. Treasury totaling about $0.5 million annually. If the state of Utah chooses to accept only federal land or unleased mineral resources that are currently not generating income for the Treasury, then the exchange would not have a significant impact on the federal budget. If the state chooses lands that are generating income, however, then the land exchange could result in losses to the Treasury totaling up to $0.5 million annually, beginning in 1996.

If the state chooses to accept royalty payments in exchange for relinquishing its land, then enactment of S. 184 could result in a significant loss of royalty receipts to the federal Treasury. (The federal share of royalty receipts in the state of Utah is $20 million to $30 million annually, and the bill would allow up to $12.5 million a year to be transferred to the state.) The transfer of royalty payments to the state would decrease federal offsetting receipts and would count as direct spending. For the purposes of this estimate, CBO assumes that the full amount of royalties authorized would be transferred to Utah. We do not expect the state and DOI to complete land valuation procedures and other negotiations for at least the next two years. Therefore, we estimate that a $12.5 million loss in receipts, and the resulting increase in budget authority and outlays, would occur in each of the fiscal years 1996–1998.

Estimated Costs to State and Local Governments: The state of Utah could receive up to about $100 million in cash payments as

a result of the land exchanges authorized in this bill. The total amount of payments would depend on final appraisals. We do not expect the bill's enactment to otherwise affect the budgets of state or local governments.

Pay-As-You-Go Considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 establishes pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. If the state of Utah chooses to accept land that is currently generating income for the federal treasury or a portion of the royalty income from certain federal mineral leases in exchange for relinquishing land to the federal government, then enactment of S. 184 would result in increased outlays to the Treasury. Although CBO estimates that such increases are unlikely to occur before fiscal year 1996, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 184. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 184, as ordered reported.

EXECUTIVE COMMUNICATIONS

March 9, 1993 and April 15, 1993, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture, the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 184. These reports had not been received at the time the report on S. 184 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Departments of Agriculture and Interior at the Subcommittee hearing follow:

STATEMENT OF MARK REIMERS, DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee: I appreciate the opportunity to present the views of the Department of Agriculture regarding the five bills being considered today. I will briefly address each bill and then would be happy to answer your questions. In general, we

support enactment of all five bills with some suggested amendments.

S. 172, SPRING MOUNTAINS NATIONAL RECREATION AREA

The Department of Agriculture supports enactment of S. 172, with a minor amendment.

S. 172 would establish a National Recreation Area of approximately 316,000 acres in Nevada, just west of Las Vegas, to be managed by the Forest Service to:

(1) preserve scenic, scientific, historic, cultural, and other values contributing to public enjoyment and biological diversity;

(2) ensure appropriate conservation and management of natural recreation resources; and

(3) provide for the development of public recreation opportunities in the Spring Mountains for the enjoyment of present and future generations.

The bill would provide for continued livestock grazing, subject to such reasonable conditions as the Secretary considers necessary. It would provide for the acquisition of lands and waters, and interests in lands and waters (including scenic easements) within the proposed boundary of the National Recreation Area, and outside the boundary for purposes of providing access to the Area.

The bill also would withdraw nearly all Federal lands within the Recreation Area from entry under the mining laws, mineral leasing and geothermal leasing laws, and from all forms of entry, appropriation, or disposal under public land laws. There is one exception to the withdrawal, involving less than 1,000 acres for an existing mining operation.

The area is now administered as part of the Toiyabe National Forest. Because of the close proximity (30 miles) to Las Vegas, the Spring Mountains are heavily used for recreation activities. Las Vegas is one of the fastest-growing metropolitan areas in the country, growing by approximately 3,000 people per month.

The Spring Mountains area ranges in elevation from 2,600 feet to 11,918 feet and serves as an escape from the summer heat in the valleys. The area provides habitat for wildlife such as elk, deer, wild turkey, bighorn sheep, golden eagles, and 48 plant species unique to the Spring Mountain range. The area is also a critical watershed, supplying water to the Las Vegas valley aquifer. The 42,000-acre Mt. Charleston Wilderness is included within the proposed National Recreation Area.

This proposal originated at the local level and has strong support from local citizens who want the area managed to protect its natural beauty and with greater emphasis on developing recreation opportunities.

Mr. Chairman, we believe these lands serve a very important recreation need for the people in the Las Vegas metropolitan area, as well as the Nation, and believe that a National Recreation Area would serve the public interest

by focusing management on resources important to the users.

Our only concern with the legislation is with Section 7(b). We suggest deleting this provision because the Forest Service has broad authority under existing statutes to exchange lands within the National Forest System. The subsection as written may be unnecessarily restrictive for the purposes of implementing S. 172. The House of Representatives deleted a similar provision during their consideration of H.R. 63, the companion House bill.

In summary, with the minor exception noted, we support enactment of S. 172.

This concludes my prepared statement on S. 172.

S. 184, UTAH SCHOOLS AND LANDS IMPROVEMENT ACT

The Department of Agriculture supports the provisions contained in S. 184 insofar as they directly affect National Forest System lands. We defer to the Department of the Interior (DOI) regarding the DOI lands and interests proposed for exchange under S. 184, the valuation of mineral interests referred to in the bill, and the specific pay-as-you-go impacts of the bill under Title XIII of the Omnibus Budget Reconciliation Act of 1990.

At the time of Statehood, the State of Utah received, in trust, 4 sections of land in each township. About 80,000 acres of these School Trust lands are within the boundaries of the National Forests in Utah. Although State inholdings require some special Federal/State land management coordination, if these State lands were transferred to private owners, the latter would expect access for development, and this could present major problems for both Federal land managers and local governments. Thus, we strongly support the concept on which S. 184 is based, which would make it possible for these State lands to be added to the National Forests in which such lands are located.

Section 5 would authorize the Secretary of Agriculture to accept approximately 76,000 acres of lands owned by the State of Utah within units of the National Forest System and provides that any lands acquired by the United States shall become a part of any National Forest within which the acquired lands are located.

Section 6 would authorize the Secretary of the Interior to accept all School Trust lands located within all established units of the National Park System located within the State of Utah.

Section 7 provides a list of the Federal lands and interests that the Secretary of the Interior shall offer for exchange.

Section 8 establishes an "equal value" requirement for all exchanges authorized under S. 184 and would authorize the Secretary of the Interior to determine the value of the Federal mineral interests exchanged, by deducting the State's share in all royalties, sales, bonuses, and rentals

collected pursuant to the Mineral Leasing Act of 1920 (30 U.S.C. 181, 201–209) from the appraised value of said mineral interests. We recommend that the word "an" before the phrase "appraisal of the lands and interests" be deleted from Section 8(a). The need may arise to perform more than just one appraisal for the properties involved. We also recommend that the references to the United States District Court contained in Section 8(d) [Section 8(b) of the substitute to S. 184] be changed to provide jurisdiction by the United States Court of Claims.

Section 9 deals with the transfer of title to the lands and interests involved in the exchange authorized by the bill. We recommend that language be added to Section 9(a) that would require the conveyance to be in a form in accordance with the Department of Justice standards for the preparation of title evidence in land acquisitions by the United States.

The estimated value of the approximately 76,000 acres of the State of Utah trust lands within the National Forest boundaries which would be conveyed to the Secretary of Agriculture is approximately $10 million. We defer to DOI regarding the estimated value of lands acquired by the Secretary of the Interior. In exchange for the lands conveyed to the United States, the State of Utah would receive an equal value of royalties receivable by the United States, interests in unleased coal, and fee estates.

We support S. 184, with our recommended amendments. This concludes prepared statement on S. 184.

S. 250, RED RIVER DESIGNATION ACT

The Department of Agriculture recommends enactment of S. 250 if amended as suggested herein.

Section 3 of S. 250 would designate a 19.4-mile segment of the Red River in the State of Kentucky as a component of the National Wild and Scenic Rivers System. The upper segment totaling 9.1 miles, known as the "Upper Gorge," would be designated as a "wild river" and the lower segment, known as the "Lower Gorge", would be designated as a "recreation river."

While we support designation of the Red River as a Wild and Scenic River, we recommend deleting portions of subparagraph A(i) and A(ii) which would set legislated boundaries for the river corridor. Deleting these provisions would also negate the need for subparagraph A(iii) directing that a map of the river corridor be prepared within 60 days of enactment. Subsection 3(b) of the Wild and Scenic Rivers Act (Public Law 90–462, as amended) already directs the Secretary of Agriculture (Secretary) to establish detailed boundaries for the river corridor using an established process within 1 year of enactment. This process provides for public notice and would allow time to develop accurately defined boundaries that would facilitate management as a Wild and Scenic River. The boundaries included in S. 250 conform to those in the recommended alternative from our

Wild and Scenic River Study of the Red River. However, that boundary is only an approximation and would be difficult to define and administer on the ground.

We also recommend deleting subparagraphs B(i) and B(ii) regarding land acquisition and would prefer to depend rather on the basic provisions of the Wild and Scenic Rivers Act. Subparagraph B(i) would require the Secretary to acquire lands and interests in lands within the river corridor only from willing sellers and would preclude the use of condemnation for those purposes. However, since more than 50 percent of the land in the corridor is Federally owned, Section 6(b) of the Wild and Scenic Rivers Act already precludes acquisition of land in fee title by condemnation. Section 6(b) would allow condemnation for scenic easements, but we do not anticipate needing that authority along the Red River.

Subparagraph B(i) would also provide that the Secretary fully compensate all sellers in an amount sufficient to acquire lands with similar characteristics and of comparable quality. This would be inconsistent with the uniform policy on real property acquisition practices (42 U.S.C. 4651) which requires that sellers be compensated at fair market value. Introduction of a new standard would tend to frustrate the acquisition of lands within the river corridor.

We recommend deleting subparagraph B(ii) to be consistent with our recommendation regarding subparagraph B(i).

This concludes my prepared statement on S. 250.

S. 489, GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT

The Department of Agriculture supports enactment of S. 489, the "Gallatin Range Consolidation and Protection Act," if amended as we recommend.

This legislation would expedite public acquisition of critical inholdings within the Gallatin National Forest in southwest Montana. These inholdings are owned by Big Sky Lumber Company in four locations within the Gallatin and Madison Mountain Ranges, as shown on the display map. These same land acquisitions were included in the Montana Wilderness bill considered by the 102nd Congress.

The lands to be acquired contain important wildlife habitats and outstanding recreation opportunities. A broad spectrum of national and local conservation and recreation organizations, Federal land management, and State fish and wildlife agencies agree that these lands should be acquired. We understand that Big Sky Lumber is receptive to these proposals, provided authorizing legislation can be enacted by June 1993.

These lands are part of a complex ownership pattern resulting from an earlier Federal land policy that granted lands to the railroads for opening up the West. The practice of granting lands in a "checkerboard" fashion has cre-

ated some of the land management problems we are dealing with today. The difficulties are particularly acute when management objectives of the owners are different.

Efforts to resolve this issue began in earnest in the 1980's, with then-owner Plum Creek Timber Company. As circumstances and owners have changed over time, an exchange with several components has evolved. A key has been the involvement of interested parties such as The Nature Conservancy and Rocky Mountain Elk Foundation. The bill recognizes this involvement and employs three distinct methods to accomplish its broader purposes.

First, there is a land exchange involving the Forest Service and Big Sky Lumber. Second, there is a transaction involving The Nature Conservancy, whereby it has secured an option on Big Sky Lumber lands in two other areas to facilitate future acquisition by the Forest Service. Third, there is an additional area of intermingled Big Sky Lumber and National Forest System lands which will be examined for possible future acquisition. I will describe each of these components in more detail.

Section 3 of S. 489 would direct the Forest Service to complete the Plum Creek Land Exchange. This two-party exchange was first proposed in 1987, and has been included in most of the Montana wilderness bills considered since that time. A total of 37,752 acres of Big Sky Lumber lands would be acquired in exchange for 12,414 acres of National Forest System lands and a $3.4 million equalization payment through Land and Water Conservation funding. In the present proposal, completing the Plum Creek Exchange is contingent upon related acquisition of Big Sky Lumber lands in the Porcupine and Taylor Fork areas.

Section 4 of S. 489 specifically authorizes the Forest Service to acquire 8,050 acres of Big Sky Lumber lands in the Porcupine Area of the Gallatin Forest by purchase or exchange, and authorizes Land and Water Conservation funding. A key to this part of the bill is the involvement of The Nature Conservancy as a third party. The Nature Conservancy holds an option agreement to acquire these lands within 2 years.

These lands are located in the upper Gallatin Canyon, just north of Yellowstone National Park. They are the same lands included in a previously-proposed Porcupine Land Exchange between the Forest Service and the previous owners of the lands.

Section 5 of S. 489 authorizes the Forest Service to acquire approximately 11,200 acres of Big Sky Lumber lands in the Taylor Fork Area of the Gallatin Forest by purchase or exchange, and authorizes Land and Water Conservation funding. The Nature Conservancy also is involved in this transaction as previously noted.

The lands are located in the Taylor Fork and Buck Creek drainages in the upper Gallatin Canyon, between Yellowstone National Park and the Lee Metcalf Wilder-

ness. The Forest Service FY 1994 Land and Water Conservation Fund request includes $1 million to purchase approximately 2,200 acres from Big Sky Lumber Company in Taylor Fork.

Section 6 of S. 489 additionally authorizes and directs the Forest Service to pursue acquisition of other Big Sky Lumber lands in the Gallatin Area, and authorizes Land and Water Conservation funding. The Forest Service would report to Congress regarding this acquisition effort. These are the remaining 24,000 acres of intermingled Big Sky Lumber lands in the northern Gallatin Range.

I will briefly highlight the key values on the lands which would be acquired and protected through this legislation, and the likely consequence if the public is unable to acquire these inholdings.

About half, or 40,000 acres, of these inholdings are located within the Gallatin Range Wilderness Study Area. Acquisition would consolidated public ownership in the Congressionally-designated wilderness study area and continue to maintain the wilderness character of the Gallatin Range until Congress can address the wilderness question. These lands contain outstanding wildlife, scenic, wilderness and recreation values.

The Porcupine, Taylor Fork, and southern Gallatin Range are all within the Greater Yellowstone Grizzly Bear Recovery Zone. These private inholdings contain resident grizzly bear populations and habitat components necessary for the recovery of this threatened species. In total, nearly 25,000 acres of the lands to be acquired on the Gallatin Forest are considered essential for recovery of the grizzly bear.

The acquisitions would consolidate public ownership in the upper Gallatin, Porcupine and Taylor Fork elk winter range, which is important habitat for over 3,000 elk which migrate from Yellowstone National Park.

The lands to be acquired in the upper Gallatin and Madison Range are the headwaters of the Gallatin and Yellowstone Rivers, two nationally-known wild trout streams. These headwater areas also contain sensitive riparian areas and valuable watersheds.

The land adjustments allow for consolidation of National Forest System lands and also consolidation of lands owned by Big Sky Lumber. In total, the National Forest boundaries would be reduced by about 540 miles, at an estimated total cost savings of $2.5 million (present value) in corner and property boundary maintenance.

If the proposed acquisitions are not consummated, Big Sky Lumber owners will likely developed their lands to serve a variety of corporate purposes.

There are also some tradeoffs if these transactions occur. The lands that would be exchanged also have resources values such as productive timber lands with significant volumes. Since the lands to be required are largely within a wilderness study area, they would not be available for

timber management. Overall, this would slightly reduce the available timber harvest from the National Forests.

Valuable wildlife habitat exists on the Federal lands which would be exchanged, such as quality mule deer summer range and habitat for elk, black bear, and moose. The northern slopes of the Bridger Range, including some of the exchange lands, have outstanding scenic qualities.

Nearly half of the Gallatin National Forest lands to be exchanged are within the Bridger Mountain Roadless Area. However, this roadless area is recommended for nonwilderness purposes in the Gallatin Forest Plan. Forest Plan direction for these lands emphasizes timber management, livestock grazing, and other objectives that are more compatible with Big Sky Lumber's ownership objectives.

Over the long term, the lands which would be acquired by Big Sky Lumber may be subject to residential development, particularly in the Bridger Mountains.

Although the Forest Service would acquire all mineral rights under lands in the Plum Creek Land Exchange portion of this bill, the mineral estate is owned separately in the case of the Porcupine and Taylor Fork areas. We believe it is critical to acquire necessary surface and subsurface ownership rights that would fulfill the purposes of this acquisition. We understand the owners of the subsurface rights are willing to convey the locatable mineral rights and to agree that no surface occupancy would occur for any leasable mineral or geothermal energy development. These conditions are the minimum we believe to be acceptable to support the overall purposes of the exchange.

We have provided the Committee with our suggested amendments to the bill.

In the balance, we believe the proposed exchange and acquisition to be in the public interest. The Forest Service would acquire many more acres than would be exchanged our of public ownership and the lands to be acquired have outstanding public values.

This concludes my prepared statement on S. 489.

S. 577, LAND SELECTIONS IN LIEU OF FOREST LANDS

Next, I would like to address S. 577, a bill "to resolve the status of certain lands relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes."

The Department of Agriculture supports enactment of S. 577, if amended as we suggest.

This bill would resolve the status of the base lands affected by the Organic Act of June 4, 1897 (30 Stat. 36) for which "in lieu selections" were never completed. The "in lieu selection" provision of the Organic Act provided for the consolidation of the Forest Reserves by permitting the owners of lands within a forest reservation to relinquish tracts to the United States and select "in lieu thereof" an equal acreage of public lands. As a result of the fraud and speculation that occurred under this system, Congress re-

pealed the in lieu selection provision by the Act of March 3, 1905 (33 Stat. 1264).

This bill seeks to remedy certain land title problems which were the outcome of the in lieu selection process. The problems resulted when some landowners relinquished rights to lands within the newly created National Forests but, for a variety of reasons, never received compensating in lieu land selections.

On many occasions, Congress has acted on a case-by-case basis and with remedial legislation to provide relief to the original owners, heirs or assigns of these tracts to settle land title questions. Most significantly, Congress enacted the Act of June 6, 1960 (74 Stat. 34), (the "Sisk" Act) in an attempt to resolve conclusively the status of the remaining relinquished base lands by providing a means of compensating such claimants. The Sisk Act confirmed title to the base lands in the United States for all tracts for which payment under the Act was or could have been made, and provided that the base lands would become part of the National forest or other Federal unit wherein they were located.

We estimate that S. 577 will affect approximately 210 parcels containing 18,000 acres of land within the National Forests. Of these lands, about 60 parcels totaling approximately 6,000 acres appear to be occupied or used by persons claiming an equitable interest based on privity of title with the original grantor of the land to the United States under the 1897 Act. Based on our initial review, it appears that the majority of these 6,000 acres are outside areas of "National Significance." Therefore, if so authorized by law, we would generally quitclaim the Federal interests in those lands to the claimant occupying or using the land.

The remaining approximately 150 parcels totaling about 12,000 acres are lands where no one is in possession and no private uses are being made. Any private claims to these lands have generally been derived from tax sales or similar mechanisms provided under state law which did not involve the Federal Government. These lands have generally been administered by the Forest Service as part of the National Forest, and we would intend that they continue to be so managed. Generally, the Forest Service has been unaware of any claimants under independent chains of title. The bill would provide a mechanism for adjudicating the rights of any persons claiming any interest in these lands.

Our support for S. 577 is predicated on several assumptions. First, that the bill would provide a mechanism for resolving the land title issue to the affected lands once and for all. Second, that it would not create additional rights or judicial remedies of claimants against the United States in Federal courts nor would it diminish any of the legal defenses to taking claims and quite title actions that are presently available to the United States.

Given these assumptions, we recommend amendments to address the following three concerns. Specific amendatory language is included in our supplemental statement and I ask that it be included in the record. These amendments were adopted by the House Committee on Natural Resources to H.R. 765, and the Committee reported the bill on March 17, 1993.

First, we recommend amendments which would provide that any arbitrary or capricious omission of lands from the initial list would be remedied judicially after publication of the final list. However, the responsibility of the Secretaries to determine which tracts will be retained in Federal ownership, a responsibility which would be preserved under this amendment, is entirely discretionary. It is anticipated that the Secretary of Agriculture will recommend the quitclaim of any lands within National Forest boundaries which have been continuously occupied or used by persons who claim title as successors to the original entrymen and who have paid taxes.

Second, we recommend amendments to assure protection of lands within "conservation system units." As currently written, if for any reason the Secretaries are unable to issue a final list at the end of an 18-month period from the date of publication of the initial list, then all lands on the initial list will be quitclaimed. This would include those tracts within "conservation systems units" and lands with specific management designation. Our amendments will provide an additional 6-months to implement the act and would exclude lands within conservation system units and those designated for special management from automatic alienation.

Third, we recommend amendments to substitute recordable disclaimers of title for quitclaim deeds. Section 2(e) would require the Secretary concerned, within 6 months After the final list is published. to issue deeds confirming the quitclaim made by the United States in section 2(a). Issuance of a deed would require inclusion of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provisions which would make the United States liable if hazardous materials are found on the lands. Thus, United States responsibility for the lands would not be terminated by this bill.

Based on our analysis of S. 577 and the requirements of Title XIII of the Omnibus Budget Reconciliation Act of 1990, this proposed legislation has no pay-as-you-go (PAYGO) impact.

This completes my comments on the five bills. I would be happy to answer any questions you or members of the Subcommittee may have.

SUPPLEMENTAL STATEMENT—U.S. DEPARTMENT OF AGRICULTURE

Concerning S. 577, a bill "To resolve the status of certain lands relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36).

USDA PROPOSED AMENDMENTS TO S. 577

To clarify that the concerned Secretary has sole discretion in deciding to retain lands outside conservation areas

P. 5, line 11, after "concerned Secretary's" insert "sole".

To clarify that any arbitrary or capricious omission of lands from the initial list can be remedied judicially.

P. 7. line 3, after "(2) If" insert "after publication of a final list".

P. 7. line 4 and 5, strike "operation of subsection (a)" and in lieu thereof insert "an initial list as provided by subsection 2(b)".

To extend the deadline for publishing a final list to 24-months and to protect U.S. Title in conservation areas.

P. 6, line 20, strike "18" and in lieu thereof insert "24".

P. 7, line 2, strike the period and insert "except lands located wholly or partially within a conservation system unit or any other areas which Congress has designated for specific management.".

To assure that the Federal Government is not responsible for the cleanup of hazardous materials on lands quiteclaimed under Section 2(b).

P. 7, line 16, strike "deeds" and in lieu thereof insert "documents of disclaimer of interest".

P. 7, line 22, strike "deed" and in lieu thereof insert "document of disclaimer of interest".

P. 7, line 25, strike "deed" and in lieu thereof insert "document of disclaimer of interest".

P. 8, line 5, strike "deed" and in lieu thereof insert "document of disclaimer of interest".

P. 8, line 12, strike "deed" and in lieu thereof insert "document of disclaimer of interest".

P. 8, line 17, strike "deeds" and in lieu thereof insert "documents of disclaimer of interest".

P. 8, line 20, strike "deed" and in lieu thereof insert "document of disclaimer of interest".

P. 8, line 22, strike "deed" and in lieu thereof insert "document of disclaimer of interest".

STATEMENT OF KEMP CONN, DEPUTY ASSISTANT DIRECTOR FOR LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to appear here today to discuss S. 184, legislation which would be entitled the "Utah Schools and Lands Improvement Act of 1993."

The Administration supports the concept of S. 184 but notes that the bill has potential Pay As You Go (PAYGO) costs from the reduced royalties to the Federal Treasury.

Consolidating the intermingled lands described in the bill will result in better land management by each of the entities involved. The land inholding problems of the State of Utah are similar to those facing the United States government, the Goshute Indian Tribe, and the Navajo Nation. S. 184 represents the consensus solution developed among many public and private parties that worked together to solve these complicated problems.

The State has legitimate needs and expectations that require our attention and action. The people of Utah deserve to be compensated for school land sections which are encompassed by Federal and tribal land and for which the management, use, and economic development have been curtailed due to such location. The State is seeking lands or interests in lands from which they can derive revenues to benefit the education of its children, a rationale that is fully consistent with its Statehood Act.

From the Federal perspective, conveyance of the encompassed State lands to the United States will directly benefit the National Park and National Forest Systems and the Indian tribes involved. The elimination of State land inholdings will allow the Federal and tribal lands to be managed more efficiently and effectively. In effect, a final settlement of the long-standing issue and the conveyance of the lands in question will benefit all of the concerned parties: the State and its residents, the State education system, the Indian tribes, and the Federal land managers and the Federal taxpayers.

S. 184 would provide for the transfer to the Secretary, subject to valid existing rights, of certain lands owned by the State within the Navajo Indian Reservation, the Goshute Indian Reservation, the National Forest System, and the National park System in exchange for other Federal lands or interests in Federal land. The lands acquired by the United States would become part of the unit within which they are geographically located. For example, acquired State lands located within the Navajo Indian Reservation in Utah would become part of the Reservation, in trust for the Navajo Nation, and those located within a National Park would become an integral part of the park.

Within 30 days after the enactment of the proposed bill, the Secretary of the Interior would be required to send the State of Utah a list of lands or interests in lands within the State of Utah for transfer to the State in exchange for specified State lands. The list would include only those Federal lands or interests in lands identified in the bill. We suggest that the bill specifically exclude any Indian lands and minerals that may be a part of any lands included in this list.

The proposed bill would require that all exchanges under the Act be for equal value and would provide a pro-

cedure to be followed in reaching agreement on appraised values.

S. 184 would also provide for payments under the Payments In Lieu of Taxes Act (PILT) for lands acquired by the United States from the State pursuant to the new Act.

We commend all of those parties who worked to resolve these issues.

We note that section 3(a) provides that there are approximately 1,360 acres of State-owned surface and subsurface within the Goshute Indian Reservation. However the records of the Bureau of Indian Affairs (BIA) indicate that there are approximately 820 acres of State-owned land within the Reservation. The BIA is examining this discrepancy and hopes to have further information for this Committee soon.

As mentioned earlier, S. 184 has PAYGO implications. An accurate estimate of the PAYGO costs will be developed and provided to the committee. We would like to work with the committee to address the PAYGO issue.

This concludes my prepared statement. I will be pleased to answer questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 184, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 31—MONEY AND FINANCE

PAYMENTS IN LIEU OF TEXAS

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§ 6902. Authority and eligibility

(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located. A unit may use the payment for any governmental purpose.

(b) A unit of general local government may not receive a payment for land for which payment under this chapter otherwise may be received if the land was owned or administered by a State or unit and was exempt from real estate taxes when the land was conveyed to the United States Government. This subsection does not apply to payments for land a State or unit acquires from a private party to donate to the Government within 8 years of [acquisition] *acquisition, nor does this subsection apply to payments for lands in Utah acquired by the United States if at the time of such acquisition units, under applicable State law, were entitled to receive payments from the State for such lands, but in such case no payment under this chapter with respect to such acquired lands shall exceed*

the payment that would have been made under State law if such lands had not been acquired.

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